

UIIdaho Law Digital Commons @ UIIdaho Law

Idaho Supreme Court Records & Briefs

8-2-2011

State v. Velasco Clerk's Record Dckt. 38866

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs

Recommended Citation

"State v. Velasco Clerk's Record Dckt. 38866" (2011). *Idaho Supreme Court Records & Briefs*. 3677.
https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/3677

This Court Document is brought to you for free and open access by Digital Commons @ UIIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs by an authorized administrator of Digital Commons @ UIIdaho Law. For more information, please contact annablaine@uidaho.edu.

LAW CLERK

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

VOL. 1 of 2

Supreme Court No. 38866-2011

STATE OF IDAHO

Plaintiff/Respondent.

vs.

MANUEL GARCIA VELASCO

Defendant/Appellant

Appeal from the District Court of the Seventh Judicial District

of the State of Idaho, in and for the County of Bingham.

Honorable Darren B. Simpson, District Judge, presiding.

Counsel for Appellant: State Appellate Public Defender, 3647 Lake Harbor Ln, Boise Idaho 83703

Counsel for Respondent: Attorney General, Statehouse Mail, and Boise, Idaho 83720-0005

38866

FILED - COPY
AUG - 2 2011
Supreme Court _____ Court of Appeals _____
Entered on ATS by _____

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS

2011 AUG - 2 A 9:06

IN THE SUPREME COURT OF STATE OF IDAHO

STATE OF IDAHO,

Plaintiff/Respondent,

-VS-

MANUEL GARCIA VELASCO,

Defendant/Appellant.

SUPREME COURT # 38866-2011

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Seventh Judicial District

of the State of Idaho, in and for the County of Bingham.

Honorable Darren B. Simpson, District Judge, presiding.

Counsel for Appellant: State Appellate Public Defender, 3647 Lake Harbor Ln,
Boise Idaho 83703

Counsel for Respondent: Attorney General, Criminal Appeals Division,
Statehouse Mailbox, Boise, Idaho 83720-0010

TABLE OF CONTENTS
STATE OF IDAHO
VS.
MANUEL GARCIA VELASCO
SUPREME COURT # 38866-2011

CR-2007-4899

<u>TITLE</u>	<u>DATE</u>	<u>PAGE</u>
ISTARS REGISTER OF ACTIONS	06/29/11	1
REMITTITUR	10/23/09	8
ORDER	05/06/11	9
FIRST AMENDED JUDGMENT / ORDER OF COMMITMENT	05/06/11	16
ORDER APPOINTING PUBLIC DEFENDER	05/06/11	19
NOTICE OF APPEAL	06/02/11	20
MOTION FOR APPOINTMENT OF THE STATE APPELLATE PUBLIC DEFENDER	06/02/11	24
ORDER APPOINTING THE STATE APPELLATE PUBLIC DEFENDER	06/10/11	26
ORDER TAKING JUDICIAL NOTICE	06/15/11	28

Date: 6/29/2011

Seventh Judicial District Court - Bingham County

User: MPRATT

Time: 04:32 PM

ROA Report

Page 1 of 7

Case: CR-2007-0004899 Current Judge: Darren B. Simpson

Defendant: Velasco, Manuel Garcia

State of Idaho vs. Manuel Garcia Velasco

Date	Code	User	Judge
5/21/2007	NEWC	JODEE	New Case Filed Charles L. Roos
	PROS	JODEE	Prosecutor Assigned: David Hooste Charles L. Roos
	WARI	JODEE	Warrant Issued - Arrest Bond amount: 10000.00 Charles L. Roos Defendant: Velasco, Manuel G
	STAT	JODEE	Case Status Changed: Inactive Charles L. Roos
8/10/2007	WART	JODEE	Warrant Returned Defendant: Velasco, Manuel G Charles L. Roos
	STAT	JODEE	Case Status Changed: Activate (previously inactive) Charles L. Roos
	ORPD	JODEE	Defendant: Velasco, Manuel G Order Appointing Public Defender Public defender Manuel Murdoch Charles L. Roos
	HRSC	JODEE	Hearing Scheduled (Preliminary 08/23/2007 08:30 AM) Charles L. Roos
	MNUT	JODEE	Minute Entry Hearing type: First Appearance Hearing date: 7/2/2007 Time: 09:00 AM Audio tape number: Digital Scott H. Hansen
		JODEE	Order Appointing Public Defender Charles L. Roos
		JODEE	Notice Of Hearing Charles L. Roos
8/13/2007	BNDS	VANORDEN	Bond Posted - Surety (Amount 10000.00) Charles L. Roos
8/23/2007	CONT	JODEE	Continued (Preliminary 09/06/2007 08:30 AM) Charles L. Roos
		JODEE	Notice Of Hearing Charles L. Roos
	MNUT	JODEE	Minute Entry Hearing type: Preliminary Hearing date: 8/23/2007 Time: 9:00 am Audio tape number: Digital Charles L. Roos
9/6/2007	CONT	JODEE	Continued (Preliminary 09/20/2007 08:30 AM) Charles L. Roos
		JODEE	Notice Of Hearing Charles L. Roos
	MNUT	JODEE	Minute Entry Hearing type: Preliminary Hearing date: 9/6/2007 Time: 9:00 am Audio tape number: Digital Charles L. Roos
9/20/2007	HRVC	JODEE	Hearing result for Preliminary held on 09/20/2007 08:30 AM: Hearing Vacated Charles L. Roos
	MNUT	JODEE	Minute Entry Hearing type: Preliminary Hearing date: 9/20/2007 Time: 9:00 am Audio tape number: Digital Charles L. Roos
9/24/2007	RQST	JODEE	Request For Discovery And Request For Notice Of Intent To Rely Upon Defense Of Alibi Charles L. Roos
	COMM	JODEE	Commitment - Held To Answer Charles L. Roos
	BOUW	JODEE	Bound Over (prelim waived) Charles L. Roos
	INFO	DISNEY	PROSECUTING ATTORNEY'S INFORMATION Darren B. Simpson
9/26/2007	HRSC	DISNEY	Hearing Scheduled (Arraignment 10/22/2007 01:00 PM) \$10,000 bond release / NO CONTACT ORDER Darren B. Simpson
		DISNEY	Notice Of Hearing Darren B. Simpson 1

Date: 6/29/2011

Seventh Judicial District Court - Bingham County

User: MPRATT

Time: 04:32 PM

ROA Report

Page 2 of 7

Case: CR-2007-0004899 Current Judge: Darren B. Simpson

Defendant: Velasco, Manuel Garcia

State of Idaho vs. Manuel Garcia Velasco

Date	Code	User	Judge
10/2/2007	SUBI	STUDENT	Subpoena Issued (Shonda Saucedo)
	SUBR	STUDENT	Subpoena Returned (Shonda Saucedo)
	SUBI	STUDENT	Subpoena Issued (Shonda L. Saucedo)
	SUBR	STUDENT	Subpoena Returned (Shonda L. Saucedo)
10/22/2007	GLTY	DISNEY	Hearing result for Arraignment held on 10/22/2007 01:00 PM: Guilty Plea Or Admission Of Guilt \$10,000 bond release / NO CONTACT ORDER
	HRSC	DISNEY	Hearing Scheduled (Sentencing 12/17/2007 03:00 PM) \$10,000 BOND RELEASE / NO CONTACT ORDER
	HRSC	DISNEY	Hearing Scheduled (Arraignment 10/23/2007 11:00 AM) \$10,000 BOND RELEASE / NO CONTACT ORDER
	MNUT	DISNEY	Minute Entry / START OF ARRGN
10/23/2007	INHD	DISNEY	Hearing result for Arraignment held on 10/23/2007 11:00 AM: Interim Hearing Held \$10,000 BOND RELEASE / NO CONTACT ORDER
	MNUT	DISNEY	Minute Entry / ORDR FOR 18-211 EVAL
	MISC	DISNEY	DRUG TEST RESULTS
	ORDR	DISNEY	Order FOR 18-211 EVAL / DR HORTON
11/19/2007	EVAL	DISNEY	Evaluation
11/28/2007	HRSC	DISNEY	Hearing Scheduled (Arraignment 12/17/2007 01:00 PM)
		DISNEY	Notice Of Hearing
12/17/2007	APNG	DISNEY	Hearing result for Arraignment held on 12/17/2007 01:00 PM: Appear & Plead Not Guilty \$10,000 BOND RELEASE - NO CONTACT ORDER
	ACKR	DISNEY	Acknowledgment of Rights
	MNUT	DISNEY	Minute Entry / not guilty plea
12/19/2007	HRSC	DISNEY	Hearing Scheduled (Jury Trial 02/26/2008 09:00 AM) \$10,000 bond release
	HRSC	DISNEY	Hearing Scheduled (Pretrial w/Jury Inst. 02/04/2008 11:00 AM) \$10,000 bond release
2/4/2008	HRVC	DISNEY	Hearing result for Jury Trial held on 02/26/2008 09:00 AM: Hearing Vacated \$10,000 bond release
	CPGT	DISNEY	Hearing result for Pretrial w/Jury Inst. held on 02/04/2008 11:00 AM: Change Plea To Guilty Before H/t \$10,000 bond release
	HRSC	DISNEY	Hearing Scheduled (Sentencing 04/14/2008 04:15 PM) \$10,000 BOND RELEASE

Date: 6/29/2011

Seventh Judicial District Court - Bingham County

User: MPRATT

Time: 04:32 PM

ROA Report

Page 3 of 7

Case: CR-2007-0004899 Current Judge: Darren B. Simpson

Defendant: Velasco, Manuel Garcia

State of Idaho vs. Manuel Garcia Velasco

Date	Code	User	Judge
2/4/2008		DISNEY	PSI Order sent via e-mail to State PSI e-mail group
	CONT	DISNEY	Continued (Status Conference 02/12/2008 03:30 PM) \$10,000 BOND RELEASE
		DISNEY	Notice Of Hearing
	MNUT	DISNEY	Minute Entry / CONT SENT
2/12/2008		DISNEY	PSI 18-211 / 212 sent via e-mail to State PSI e-mail group
	CONT	DISNEY	Continued (Status Conference 03/04/2008 03:30 PM) \$10,000 BOND RELEASE
	MNUT	DISNEY	Minute Entry / cont COP
		DISNEY	PV Screening Order sent via e-mail to State PV e-mail group
		DISNEY	Notice Of Hearing
2/26/2008	CONT	DISNEY	Continued (Status Conference 03/04/2008 10:45 AM) \$10,000 BOND RELEASE
		DISNEY	Notice Of Hearing
3/4/2008	CONT	DISNEY	Continued (Status Conference 03/24/2008 11:45 AM) \$10,000 BOND RELEASE
		DISNEY	Notice Of Hearing
3/28/2008	HRSC	DISNEY	Hearing Scheduled (Change of Plea 05/06/2008 01:30 PM) \$10,000 BOND RELEASE
		DISNEY	Notice Of Hearing
5/6/2008	CONT	DISNEY	Continued (Change of Plea 06/03/2008 01:30 PM) \$10,000 BOND RELEASE
	HRSC	DISNEY	Hearing Scheduled (Status Conference 05/19/2008 01:00 PM) \$10,000 bond release
	MNUT	DISNEY	Minute Entry / cont matter
		DISNEY	Notice Of Hearing
5/19/2008	DCHH	DISNEY	Hearing result for Status Conference held on 05/19/2008 01:00 PM: District Court Hearing Held Court Reporter: Sandi Beebe Number of transcript pages for this hearing estimated: \$10,000 bond release
	INHD	DISNEY	Hearing result for Status Conference held on 05/19/2008 01:00 PM: Interim Hearing Held \$10,000 bond release
	MNUT	DISNEY	Minute Entry / Stat Conf
6/3/2008	DCHH	DISNEY	Hearing result for Change of Plea held on 06/03/2008 01:30 PM: District Court Hearing Held Court Reporter: SANDI BEEBE Number of transcript pages for this hearing estimated: \$10,000 BOND RELEASE

Date: 6/29/2011

Seventh Judicial District Court - Bingham County

User: MPRATT

Time: 04:32 PM

ROA Report

Page 4 of 7

Case: CR-2007-0004899 Current Judge: Darren B. Simpson

Defendant: Velasco, Manuel Garcia

State of Idaho vs. Manuel Garcia Velasco

Date	Code	User	Judge
6/3/2008	INHD	DISNEY	Hearing result for Change of Plea held on 06/03/2008 01:30 PM: Interim Hearing Held \$10,000 BOND RELEASE
6/18/2008	HRSC	DISNEY	Hearing Scheduled (Telephonic Status Conference 06/25/2008 02:30 PM) WITH DR CHRISTENSEN
		DISNEY	Notice Of Hearing
6/25/2008	INHD	DISNEY	Hearing result for Telephonic Status Conference held on 06/25/2008 02:30 PM: Interim Hearing Held WITH DR CHRISTENSEN
	HRSC	DISNEY	Hearing Scheduled (Change of Plea 07/09/2008 03:00 PM)
	MNUT	DISNEY	Minute Entry / tele stat conf with Dr Christensen
		DISNEY	Notice Of Hearing
7/9/2008	DCHH	DISNEY	Hearing result for Change of Plea held on 07/09/2008 03:00 PM: District Court Hearing Held Court Reporter: Sandi Beebe Number of transcript pages for this hearing estimated: \$10,000 bond release
	CPGT	DISNEY	Hearing result for Change of Plea held on 07/09/2008 03:00 PM: Change Plea To Guilty Before H/t \$10,000 bond release
	MNUT	DISNEY	Minute Entry
7/10/2008	HRSC	DISNEY	Hearing Scheduled (Status Conference 08/05/2008 11:30 AM) \$10,000 bond release
		DISNEY	Notice Of Hearing
8/5/2008	DCHH	DISNEY	Hearing result for Status Conference held on 08/05/2008 11:30 AM: District Court Hearing Held Court Reporter: Sandi Beebe Number of transcript pages for this hearing estimated: \$10,000 bond release
	HRHD	DISNEY	Hearing result for Status Conference held on 08/05/2008 11:30 AM: Hearing Held \$10,000 bond release
	MNUT	DISNEY	Minute Entry
9/9/2008	ORDR	DISNEY	Order accepting defendant's Alford Plea
	HRSC	DISNEY	Hearing Scheduled (Further Proceedings 09/29/2008 11:15 AM)
		DISNEY	Notice Of Hearing
9/29/2008	HRSC	MPRATT	Hearing Scheduled (Sentencing 11/17/2008 03:00 PM) \$10,000 BOND RELEASE
		MPRATT	PSI Order sent via e-mail to State PSI e-mail group

Date: 6/29/2011

Seventh Judicial District Court - Bingham County

User: MPRATT

Time: 04:32 PM

ROA Report

Page 5 of 7

Case: CR-2007-0004899 Current Judge: Darren B. Simpson

Defendant: Velasco, Manuel Garcia

State of Idaho vs. Manuel Garcia Velasco

Date	Code	User	Judge
9/29/2008	DCHH	MPRATT	Hearing result for Further Proceedings held on 09/29/2008 11:15 AM: District Court Hearing Held Court Reporter: Sandi Beebe Number of transcript pages for this hearing estimated: \$10,000 bond release
	INHD	MPRATT	Hearing result for Further Proceedings held on 09/29/2008 11:15 AM: Interim Hearing Held \$10,000 bond release
	MNUT	MPRATT	Minute Entry / set Sentencing
	ORDR	MPRATT	Order for psychosexual evaluation
9/30/2008		DISNEY	Notice Of Hearing
10/9/2008	CONT	DISNEY	Continued (Sentencing 12/08/2008 02:30 PM) \$10,000 BOND RELEASE
		DISNEY	Notice Of Hearing - AMENDED
11/24/2008	EVAL	DISNEY	Evaluation
12/2/2008	PSI	DISNEY	Pre-Sentence Report
12/8/2008	DCHH	DISNEY	Hearing result for Sentencing held on 12/08/2008 02:30 PM: District Court Hearing Held Court Reporter: Sandi Beebe Number of transcript pages for this hearing estimated: \$10,000 BOND RELEASE
	DPHR	DISNEY	Hearing result for Sentencing held on 12/08/2008 02:30 PM: Disposition With Hearing \$10,000 BOND RELEASE
	MISC	DISNEY	PSI & TIME CREDIT FILED
	MNUT	DISNEY	Minute Entry / SENTENCING
	GLTY	DISNEY	Guilty Plea Or Admission Of Guilt (118-1508 Lewd Conduct With Child Under 16)
	SNIC	DISNEY	Sentenced To Incarceration (118-1508 Lewd Conduct With Child Under 16) Confinement terms: Credited time: 2 days. Penitentiary determinate: 10 years. Penitentiary indeterminate: 20 years.
	SNPF	DISNEY	Sentenced To Pay Fine
	STAT	DISNEY	Case Status Changed closed pending clerk action
	MISC	DISNEY	PSI & TIME CREDIT FILED
	MNUT	DISNEY	Minute Entry / SENTENCING
	JDMT	DISNEY	Judgment / ORDER OF COMMITMENT
	RTOR	DISNEY	Restitution Order
	BNDE	DISNEY	Surety Bond Exonerated (Amount 10,000.00)
1/16/2009	APSC	MPRATT	Appealed To The Supreme Court
1/22/2009	RULE 35	DISNEY	Rule 35 Motion

Date: 6/29/2011

Seventh Judicial District Court - Bingham County

User: MPRATT

Time: 04:32 PM

ROA Report

Page 6 of 7

Case: CR-2007-0004899 Current Judge: Darren B. Simpson

Defendant: Velasco, Manuel Garcia

State of Idaho vs. Manuel Garcia Velasco

Date	Code	User	Judge
1/22/2009	HRSC	DISNEY	Hearing Scheduled (Rule 35 02/17/2009 03:30 PM)
1/23/2009	OBJT	DISNEY	Objection TO RULE 35
1/28/2009	MOTN	MPRATT	Motion for Transcript to be Paid at County Expense
1/29/2009	HRSC	MPRATT	Hearing Scheduled (Motion 02/17/2009 03:30 PM) waive transcript fees
1/30/2009	APPR	DISNEY	Defendant: Velasco, Manuel Garcia Appearance Through Attorney Stephen J Blaser
	SUBC	DISNEY	Substitution Of Counsel
	RSPN	DISNEY	Response to def's motn for prep of transcript
2/5/2009	ORDR	MPRATT	Order Conditionally Dismissing Appeal pending payment of transcript/record fees
2/17/2009	GRNT	DISNEY	Hearing result for Motion held on 02/17/2009 03:30 PM: Motion Granted waive transcript fees
	DCHH	DISNEY	Hearing result for Motion held on 02/17/2009 03:30 PM: District Court Hearing Held Court Reporter: Sandi Beebe Number of transcript pages for this hearing estimated: waive transcript fees
	DCHH	DISNEY	Hearing result for Rule 35 held on 02/17/2009 03:30 PM: District Court Hearing Held Court Reporter: Sandi Beebe Number of transcript pages for this hearing estimated:
	DENY	DISNEY	Hearing result for Rule 35 held on 02/17/2009 03:30 PM: Motion Denied
	MNUT	DISNEY	Minute Entry / Rule 35
	ORDR	DISNEY	Order denying Rule 35
	STAT	DISNEY	Case Status Changed: closed pending clerk action
2/25/2009	ORDR	DISNEY	Order to waive payment of transcript and clerk's record by defendant
6/11/2009	NOTC	MPRATT	Notice of Lodging Clerk's Record and Transcript
		MPRATT	Appeal sent to counsel
7/10/2009		MPRATT	Appeal sent to Supreme Court
10/23/2009	REMT	MPRATT	Remittitur - Appeal Dismissed
1/6/2011	MOTN	JAEME	Motion to Correct and Amend to Petition for Post Conviction Relief
5/6/2011	ORPD	DISNEY	Defendant: Velasco, Manuel Garcia Order Appointing Public Defender Public defender Trevor L. Castleton
		DISNEY	Order Appointing Public Defender

Date: 6/29/2011

Seventh Judicial District Court - Bingham County

User: MPRATT

Time: 04:32 PM

ROA Report

Page 7 of 7

Case: CR-2007-0004899 Current Judge: Darren B. Simpson

Defendant: Velasco, Manuel Garcia

State of Idaho vs. Manuel Garcia Velasco

Date	Code	User	Judge
5/6/2011	MNUT	DISNEY	Minute Entry Hearing type: Further Proceedings Hearing date: 5/6/2011 Time: 2:47 pm Courtroom: Court reporter: Minutes Clerk: DISNEY Tape Number: Defense Attorney: Trevor Castleton Prosecutor: David Hooste Darren B. Simpson
	ORDR	DISNEY	Order Re: post conviction relief Darren B. Simpson
	JDMT	DISNEY	1st amended judgment / order of commitment Darren B. Simpson
	STAT	DISNEY	Case Status Changed: closed pending clerk action Darren B. Simpson
6/2/2011	APSC	MPRATT	Appealed To The Supreme Court Darren B. Simpson
	MOTN	MPRATT	Motion for Appointment of State Appellate Public Defender Darren B. Simpson
6/10/2011	ORDR	MPRATT	Order Appointing State Appellate Public Defender Darren B. Simpson
6/15/2011	ORDR	MPRATT	SC Order Taking Judicial Notice of Clerk's Record and Reporter's Transcript in previous appeal Docket # 36094 Darren B. Simpson
	NOTC	MPRATT	Notice of Appeal filed / Docket # 38866 / Due 8/15/11 Darren B. Simpson

In the Supreme Court of the State of Idaho

STATE OF IDAHO,
Plaintiff-Respondent,

v.

MANUEL GARCIA VELASCO ,
Defendant-Appellant.

REMITTITUR

Supreme Court Docket No. 36094
Bingham County D.C. #2007-4899

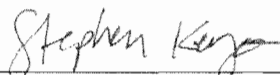
2009 OCT 23 AM 11:00

TO: SEVENTH JUDICIAL DISTRICT, COUNTY OF BINGHAM.

The Court having entered an Order dismissing this appeal September 17, 2009;
therefore,

IT IS HEREBY ORDERED that the appeal herein from the Judgment of the
District Court be, and hereby is, DISMISSED.

DATED this 14th day of October, 2009.


Clerk of the Supreme Court
STATE OF IDAHO

cc: Counsel of Record
District Court Clerk
District Judge
Court Reporter(s)

0267-4879

Page | 1
9

2011 MAY -6 PM 2:32

CLERK OF DISTRICT COURT

BY

FILED

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

MANUEL GARCIA VELASCO,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

Case No. CV-2010-2889

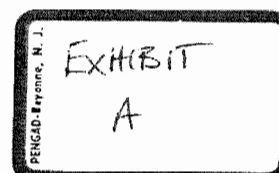
**ORDER GRANTING POST-
CONVICTION RELIEF**

FINDING

Petitioner has filed an application for post-conviction relief alleging that the attorney in his underlying criminal matter, Bingham County Case CR-2007-4899, provided ineffective assistance of counsel in violation of his rights under the Sixth Amendment of the United States Constitution. Specifically, Petitioner alleges that while the matter was on appeal, his attorney, Stephen Blaser, failed to file an appellant's brief. Petitioner further alleges that Petitioner's appeal was dismissed as a result of the failure of Mr. Blaser to file an appellant's brief. Petitioner claims that this failure to file an appellant's brief constituted ineffective assistance of counsel entitling him to post-conviction relief. Petitioner requests that he have his right to appeal reinstated.

The State of Idaho has filed a document entitled Consent To Granting Of Post-Conviction Relief. In the document, the State of Idaho consents to the court entering an order in this matter finding that counsel in Petitioner's underlying criminal case provided ineffective assistance of counsel to Petitioner. The State of Idaho concedes that the Mr. Blaser failed to file an appellant's

ORDER GRANTING POST-CONVICTION RELIEF



1

10

brief in relation to Petitioner's appeal, that the failure to do so resulted in the dismissal of Petitioner's appeal, and that there was no legal justification for Mr. Blaser having failed to file the appellant's brief. The State of Idaho concedes that Mr. Blaser's failure to file the appellant's brief constituted both a defective performance and a resulting prejudice to the Petitioner.

Based on the filings of the Petitioner and the consent filed by the State of Idaho, the Court finds that Mr. Blaser provided ineffective assistance of counsel by failing to file an appellant's brief in the underlying criminal matter. The Petitioner is entitled to have post-conviction relief granted in his favor. The Petitioner should be allowed to pursue the appeal that was dismissed in the underlying criminal matter.

The State of Idaho consents to the court entering a judgment granting Petitioner the right to file an appeal in his underlying criminal matter. The State of Idaho has requested that the court enter an order and judgment consistent with the consent filed by the State of Idaho. The Court finds that the entry of such an order would be appropriate and that there is no reason justifying a delay in the entry of the order.

The Court will order that the judgment in Bingham County Case CR-2007-4899 be reissued. Petitioner will have forty-two days from the date of the entry of that order to file an appeal.

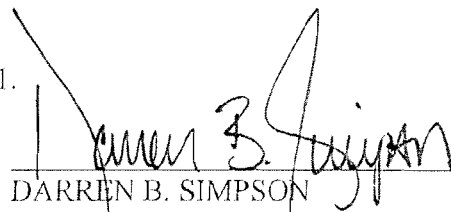
The Court finds that an award of attorney fees and costs are not appropriate in this matter. As such, no attorney fees or costs are awarded.

ORDER

IT IS HEREBY ORDERED that Petitioner's application for post-conviction relief is granted and Petitioner shall be allowed to pursue the appeal in Bingham County Case CR-2007-4899.

IT IS HEREBY FURTHER ORDERED that the judgment entered in Bingham County Case CR-2007-4899 shall be reissued and that the defendant shall have forty-two (42) days therefrom to file an appeal.

DATED this 6TH day of May 2011.


DARREN B. SIMPSON
District Judge

ORDER GRANTING POST-CONVICTION RELIEF

STATE OF IDAHO } SS
COUNTY OF BINGHAM }
I hereby certify that the foregoing instrument is a full,
true and correct copy of the original on file in the office
of the Clerk of the District Court of the
Seventh Judicial District of Idaho, for Bingham County.
Date May 6 2011
SARA J. STABLE
Clerk of the Court
By [Signature] Deputy Clerk

CERTIFICATE OF SERVICE

I do hereby certify that I caused to be served a true and correct copy of the foregoing upon the following persons identified below in the manner indicated on this 6th day of May 2011:

<input type="checkbox"/> first class mail	J. Scott Andrew
<input type="checkbox"/> hand delivery	Bingham County Prosecuting Attorney's Office
<input checked="" type="checkbox"/> designated courthouse box	501 North Maple
<input type="checkbox"/> fax	Blackfoot, ID 83221

<input type="checkbox"/> first class mail	Trevor L. Castleton
<input type="checkbox"/> hand delivery	Attorney at Law
<input checked="" type="checkbox"/> designated courthouse box	525 9th Street
<input type="checkbox"/> fax	Idaho Falls, ID 83404

SARA J. STAUB, CLERK


Deputy

2011 MAY -6 PM 2:32

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

MANUEL GARCIA VELASCO,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

Case No. CV-2010-2889

JUDGMENT

THIS COURT in conjunction with its *Order Granting Post-Conviction Relief*, entered in the above-numbered and styled cause on May 6, 2011, finds that a Judgment should issue in this matter pursuant to Idaho Rule of Civil Procedure 54(a). Accordingly,

IT IS HEREBY ORDERED that Petitioner's application for post-conviction relief is granted and Petitioner shall be allowed to pursue the appeal in Bingham County Case CR-2007-4899.

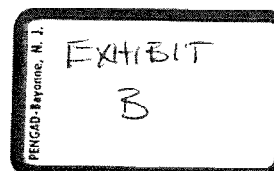
IT IS HEREBY FURTHER ORDERED that the judgment entered in Bingham County Case CR-2007-4899 on December 16, 2008, shall be reissued and that the defendant shall have forty-two (42) days therefrom to file an appeal. The reissued judgment shall be entitled *First Amended Judgment / Order of Commitment*.

DATED this 6th day of May 2011.

STATE OF IDAHO } ss
COUNTY OF BINGHAM }
I hereby certify that the foregoing instrument is a full,
true and correct copy of the original on file in the office
of the undersigned Clerk of the District Court of the
Seventh Judicial District of Idaho, for Bingham County.
Date: May 6 20 11
SARA J. STAUS
Clerk of the Court
By: [Signature]
Deputy Clerk

[Signature]
DARREN B. SIMPSON
District Judge

JUDGMENT



CERTIFICATE OF SERVICE

I do hereby certify that I caused to be served a true and correct copy of the foregoing upon the following persons identified below in the manner indicated on this 10 day of May 2011:

- ☐ first class mail
- ☐ hand delivery
- ☒ designated courthouse box
- ☐ fax

J. Scott Andrew
Bingham County Prosecuting Attorney's Office
501 North Maple
Blackfoot, ID 83221

- ☐ first class mail
- ☐ hand delivery
- ☒ designated courthouse box
- ☐ fax

Trevor L. Castleton
Attorney at Law
525 9th Street
Idaho Falls, ID 83404

SARA J. STAUB, CLERK


Deputy

CERTIFICATE OF SERVICE

I do hereby certify that I caused to be served a true and correct copy of the foregoing upon the following persons identified below in the manner indicated on this 6 day of May 2011:

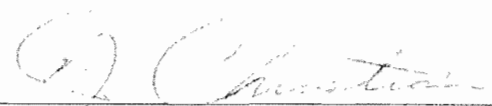
- ☐ first class mail
- ☐ hand delivery
- ☒ designated courthouse box
- ☐ fax

J. Scott Andrew
Bingham County Prosecuting Attorney's Office
501 North Maple
Blackfoot, ID 83221

- ☐ first class mail
- ☐ hand delivery
- ☒ designated courthouse box
- ☐ fax

Trevor L. Castleton
Attorney at Law
525 9th Street
Idaho Falls, ID 83404

SARA J. STAUB, CLERK



Deputy

2007-07-08 PM 3:58
CR-2007-4899
gjc

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT

STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

STATE OF IDAHO,)	
Plaintiff,	)	Case No. CR-2007-4899
	)	FIRST AMENDED
-vs-	)	JUDGMENT / ORDER OF
MANUEL GARCIA VELASCO	)	COMMITMENT
DOB: [REDACTED])	
SSN: [REDACTED])	
IDOC#: 91050)	
Defendant.)	

On the 8th day of December 2008, this matter came before the Honorable Darren B. Simpson, District Judge. David Hooste, Esq., personally appeared for the State of Idaho. The defendant appeared with Manuel Murdoch, Esq. Court Reporter, Sandi Beebe, and Deputy Clerk, Claudia Christian, were present.

On the 9th day of July 2008, the defendant entered a plea of guilty to the offense of Lewd Conduct with a Minor Child Under Sixteen, Felony, a violation of I.C. § 18-1508, committed on or about the 24th day of March 2007. The Court having inquired of the defendant and good cause appearing, therefore;

IT IS ORDERED, ADJUDGED AND DECREED THAT THE DEFENDANT IS GUILTY AND CONVICTED OF THE CHARGE OF LEWD CONDUCT WITH A MINOR CHILD UNDER SIXTEEN, Felony, a violation of I.C. § 18-1508, AND THAT SAID DEFENDANT BE, AND HEREBY IS, SENTENCED, PURSUANT TO IDAHO CODE §19-2521, TO THE CUSTODY OF THE IDAHO STATE BOARD OF CORRECTION, TO BE HELD AND INCARCERATED BY SAID BOARD IN A SUITABLE PLACE, FOR A FIXED AND DETERMINATE PERIOD OF TEN (10) YEARS TOGETHER WITH AN INDETERMINATE PERIOD OF TWENTY (20) YEARS, (NOT LESS THAN TEN (10) YEARS NOR MORE THAN THIRTY (30) YEARS) and a fine in the amount of \$ 1,000.00.

IT IS FURTHER ORDERED that the defendant shall register as a sex offender pursuant to statute I.C. 18-8304; as of the date of release from incarceration.

IT IS FURTHER RECOMMENDED THAT the defendant undergo evaluation and treatment in an ATSA (Association for Treatment of Sexual Abusers) based sex offender program.

IT IS FURTHER ORDERED that the defendant shall pay the following: Court Costs in the amount of \$60.50; the Victim's Relief Fund in the amount of \$250.00; the Public Defender's Fund in the amount of \$500.00; and restitution in the amount of \$2,134.68 as follows: \$560.00 to Behavioral Reform, Inc., \$300.00 to Psychological Assessment Specialists and \$1,274.68 to Kenneth P. Lindsey, PH. D..

IT IS FURTHER ORDERED that the defendant shall be given **credit** for time served in the amount of **2 days**.

IT IS FURTHER ORDERED THAT THE SENTENCE SHALL COMMENCE IMMEDIATELY UPON SENTENCE BEING IMPOSED.

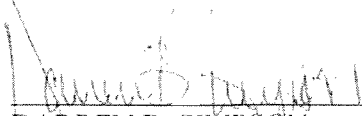
IT IS FURTHER ORDERED that the defendant be committed to the custody of the Sheriff of Bingham County, Idaho, for delivery forthwith to the custody of the Idaho State Board of Correction at the Idaho State Penitentiary or other facility within the State designated by the State Board of Correction.

IT IS FURTHER ORDERED that the Clerk shall deliver a certified copy of this Judgment and Commitment to said Sheriff, which shall serve as the commitment of the defendant.

IT IS FURTHER ORDERED THAT The defendant be remanded to the custody of the Bingham County Sheriff for delivery forthwith to the Board of Correction.

The defendant is advised of the right to appeal, the right to seek post-conviction relief, and the right to seek leniency pursuant to Idaho Criminal Rule (ICR) 35.

IT IS SO ORDERED AND DATED this 6th day of May 2011.


DARREN B. SIMPSON
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a full, true and correct copy of the foregoing **JUDGMENT** was personally delivered, faxed, or mailed by first-class mail, with prepaid postage this 6 day of May 2011 to the following:

Department of Corrections, Central Records, 1299 North Orchard, Suite 110, Boise, ID 83706, Fax: 208-327-7445; 208-327-7480

Prosecutor's Office (designated courthouse box)

Trevor Castleton, Esq., (designated courthouse box)

SARA STAUB, CLERK
Clerk of the District Court


Deputy Clerk

Seventh Judicial District Court, State of Idaho
In and For the County of Bingham
501 N. Maple #402
Blackfoot, Idaho 83221-1700

2011 MAY -5 PM 3:29

CR6 7-4577

State of Idaho

Case No. CR-2007-0004899

vs.

**ORDER APPOINTING
PUBLIC DEFENDER**

Manuel Garcia Velasco
P. O. Box 123 113 N Fisher
Firth, ID
DOB: [REDACTED]

The Court being fully advised as to the application of Manuel Garcia Velasco, and it appearing to be a proper case,

NOW, THEREFORE, IT IS ORDERED that:

Trevor L. Castleton
525 Ninth Street
Idaho Falls, ID

Public defender for the County of Bingham, State of Idaho, a duly licensed attorney in the State of Idaho, is hereby appointed to represent said Defendant, Manuel Garcia Velasco, in all proceedings in the above entitled case.

The Defendant is further advised that he/she may be required to reimburse the Court for all or part of the cost of court appointed counsel.

DATE: May 14, 2011

[Signature]
JUDGE

COPIES TO:

✓ Public Defender
✓ Prosecutor

[Signature]
DEPUTY CLERK

ORDER APPOINTING PUBLIC DEFENDER

OFFICE OF THE PUBLIC DEFENDER, BINGHAM COUNTY, IDAHO 2011 JUN -2 11:14:23

Trevor L. Castleton, Esq., Bar No. 5809
SWAFFORD LAW OFFICE
525 Ninth Street
Idaho Falls, Idaho 83404
Telephone (208) 524-4002
Facsimile (208) 524-4131

UMP

Attorney for Defendant

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM**

STATE OF IDAHO,

Plaintiff-Appellee,

vs.

MANUEL GARCIA VELASCO,

Defendant-Appellant.

Case No. CR-2007-4899

NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, BINGHAM COUNTY PROSECUTOR OF BLACKFOOT, IDAHO, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

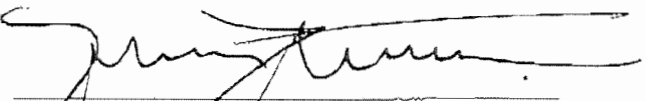
NOTICE IS HEREBY GIVEN THAT:

1. The above- named appellant appeals against the above-named respondent to the Idaho Supreme Court from the judgment entered in the above-entitled action on the 6th day of May, 2011, the Honorable Darren B. Simpson, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:
 - a. Sentencing the Defendant to an excessive sentence and any other issues that may be reviewable.
4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).
5. The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(a). the appellant also requests the preparation of the following portions of the reporter's transcript:
 - a. The Sentencing hearing held on December 8th, 2008.
 - b. The Plea Hearing on July 9, 2008
6. The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):
 - a. Any and all Search Warrants.
 - b. Any exhibits, including but not limited to letters or victim impact statements and other addendums to the PSI or other items offered at time of sentencing;
 - c. Pre Sentence Report and any or all attachments, exhibits or addendums thereto;
and
 - d. Any written plea agreements.
7. I certify:
 - a. That a copy of this Notice of Appeal has been served on the reporter;

- b. That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- c. That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(A)(8));
- d. That arrangements will be made with Bingham County who will be responsible for paying for the reporter's transcript, as the client is indigent, (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- e. That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 1st day of June, 2011.



TREVOR L. CASTLETON, ESQ.
Public Defender, Bingham County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I served a copy of the foregoing document upon
the designated parties affected thereby as follows:

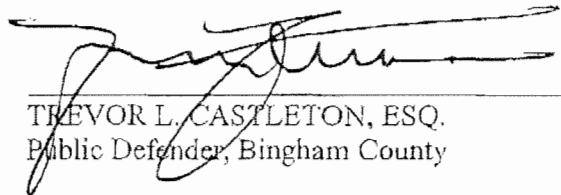
J. Scott Andrew, Esq
Bingham County Prosecutor
501 North Maple, Box 302
Blackfoot, Idaho 83221

☐ U.S. MAIL
☒ FAX (208) 785-5199
☐ HAND DELIVERY
☐ COURTHOUSE BOX
☐ EXPRESS DELIVERY

Sandra Beebe
Bingham County Court Reporter
501 North Maple
Blackfoot, Idaho 83221

☒ U.S. MAIL
☐ FAX
☐ HAND DELIVERY
☐ COURTHOUSE BOX
☐ EXPRESS DELIVERY

DATED this 1st day of June, 2011.



TREVOR L. CASTLETON, ESQ.
Public Defender, Bingham County

2011-07-2 11:14

OFFICE OF THE PUBLIC DEFENDER, BINGHAM COUNTY, IDAHO. *CMP*

Trevor L. Castleton, Esq., Bar No. 5809

SWAFFORD LAW OFFICE

525 Ninth Street

Idaho Falls, Idaho 83404

Telephone (208) 524-4002

Facsimile (208) 524-4131

Attorney for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

STATE OF IDAHO,

Plaintiff-Appellee,

vs.

MANUEL GARCIA VELASCO,

Defendant-Appellant.

Case No. CR-2007-4899

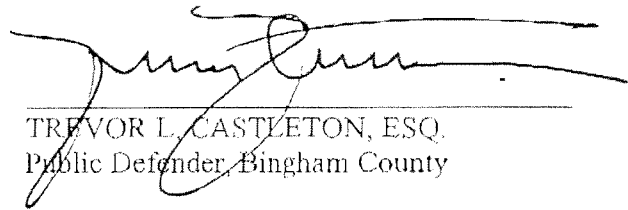
MOTION FOR APPOINTMENT OF
STATE APPELLATE PUBLIC
DEFENDER

COMES NOW Defendant-Appellant, MANUEL GARCIA VELASCO, by and through TREVOR L. CASTLETON, Bingham County Public Defender, and pursuant to Idaho Appellate Rule 45.1(a), who hereby moves this Court for the appointment of the State Appellate Public Defender to represent him further in this appeal.

This Motion is based upon the fact that Defendant-Appellant is indigent, evidenced by his incarceration with the Idaho Department of Corrections, since December 8, 2008.

Additionally, pursuant to Idaho Appellate Rule 32(d), the undersigned does hereby certify that he has contacted opposing counsel, Bingham County Prosecuting Attorney, J. SCOTT ANDREW, ESQ., and is authorized to represent that opposing counsel has no objection to this Motion.

DATED AND CERTIFIED this 1st day of June, 2011.



TREVOR L. CASTLETON, ESQ.
Public Defender, Bingham County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I served a copy of the foregoing document upon the designated parties affected thereby as follows:

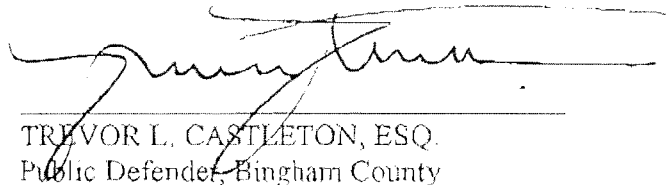
J. Scott Andrew, Esq.
Bingham County Prosecutor
501 North Maple, Box 302
Blackfoot, Idaho 83221

☐ U.S. MAIL
☒ FAX (208) 785-5199
☐ HAND DELIVERY
☐ COURTHOUSE BOX
☐ EXPRESS DELIVERY

Sandra Beebe
Bingham County Court Reporter
501 North Maple
Blackfoot, Idaho 83221

☒ U.S. MAIL
☐ FAX
☐ HAND DELIVERY
☐ COURTHOUSE BOX
☐ EXPRESS DELIVERY

DATED this 1st day of June, 2011.



TREVOR L. CASTLETON, ESQ.
Public Defender, Bingham County

2011 JUN 10 PM 1:10

SNP

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

STATE OF IDAHO,)	
)	
Plaintiff / Respondent,	)	CASE NO. CR-2007-4899
-vs-)	
	)	ORDER APPOINTING STATE
MANUEL GARCIA VELASCO,	)	APPELLATE PUBLIC DEFENDER
)	
Defendant / Appellant.)	

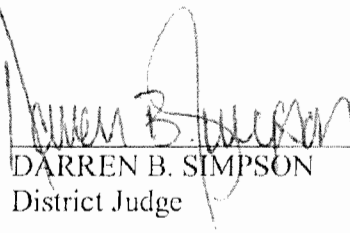
The above named Appellant has requested the aid of counsel in pursuing a direct appeal from the First Amended Judgment / Order of Commitment entered by this Court:

The Court being satisfied that said defendant is a needy person entitled to the services of the State Appellate Public Defender for purposes of appeal pursuant to Idaho Code §19-852 and 19-854 and the services of the State Appellate Public Defender are available;

IT IS HEREBY ORDERED, in accordance with Idaho Code §19-870, that the State Appellate Public Defender is appointed to represent the Appellant on this appeal.

IT IS FURTHER ORDERED that Trevor L. Castleton shall be allowed to withdraw as counsel of record in all matters regarding the appeal.

DATED this 10th day of June 2011


DARREN B. SIMPSON
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 10 day of June 2011, served a true and correct copy of the attached ORDER APPOINTING STATE APPELLATE PUBLIC DEFENDER by placing a copy in the United States Mail, with the correct postage thereon, or by causing the same to be hand delivered to the following parties:

STATE APPELLATE PUBLIC DEFENDER
3647 LAKE HARBOR LN
BOISE IDAHO 83703

STATE OF IDAHO ATTORNEY GENERAL
PO BOX 83720
BOISE, ID 83720-1000

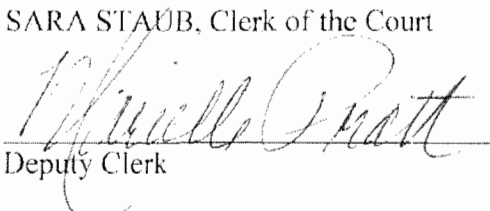
COURT OF APPEALS
STEPHEN KENYON
PO BOX 83720
BOISE, ID 83720-0101

SANDRA BEEBE, Designated Courthouse Box

PROSECUTOR'S OFFICE, Designated Courthouse Box

TREVOR CASTLETON, ESQ., Designated Courthouse Box

SARA STAUB, Clerk of the Court


Deputy Clerk

ate of Idaho
6/15/11 at 2:15 PM

)

)

)

)

11

;

)

)

)

,

28

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
	)	SUPREME COURT # 38866-2011
Plaintiff / Respondent.)	
-vs-)	
	)	CERTIFICATION OF EXHIBITS
MANUEL GARCIA VELASCO,)	
)	
Defendant / Appellant.)	

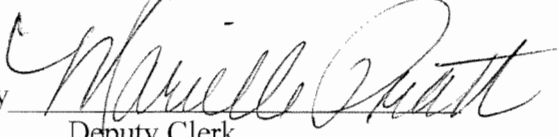
I, SARA STAUB, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bingham, do hereby certify, list and describe the following exhibits which were offered or admitted during the proceedings in the above-entitled case:

EXHIBITS/APPENDICES

TITLE
NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court at Blackfoot, Idaho, this 30th day of June 2011.

SARA STAUB, Clerk of the Court

By 
Deputy Clerk


IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
	)	SUPREME COURT # 38866-2011
Plaintiff/Respondent,)	
-vs-)	
	)	CERTIFICATION OF
	)	CLERK'S RECORD
MANUEL GARCIA VELASCO,)	
)	
Defendant/Appellant.)	
_____)	

I, SARAH STAUB, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bingham, do hereby certify that the above and foregoing record in the above-entitled case was compiled and bound under my direction, and is a true, full and correct record of the pleadings, documents and papers designated to be included in the clerk's record by the Idaho Appellate Rule 28, the notice of appeal, any notice of cross-appeal, and any designation of additional documents to be included in the clerk's record.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court at Blackfoot, Idaho, this 30th day of June 2011.

SARAH STAUB, Clerk of the Court


Deputy Clerk

IN THE SUPREME COURT OF STATE OF IDAHO

STATE OF IDAHO

Plaintiff / Respondent,

-vs-

MANUEL GARCIA VELASCO,

Defendant / Appellant.

SUPREME COURT # 38866

CERTIFICATE OF SERVICE

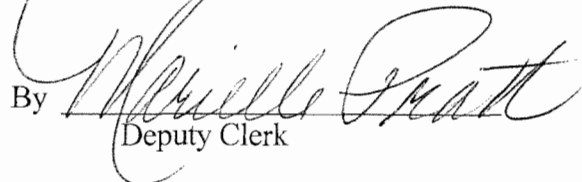
I, SARA STAUB, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bingham, do hereby certify I personally served or mailed, by United States mail, one copy of the clerk's record and the reporter's transcript in the above-entitled case to each of the attorneys of record, to wit:

Appellant's counsel: State Appellate Public Defender, 3647 Lake Harbor Ln. Boise, ID 83703

Respondent's counsel: Attorney General, Statehouse Mail, Boise, Idaho 83720-0005

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court at Blackfoot, Idaho, this 30th day of June 2011.

SARA STAUB, CLERK
Clerk of the District Court

By 
Deputy Clerk